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EXTRAORDINARY PART II—Section 3—Sub-section (ii) PUBLISHED BY AUTHORITY

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CENTRAL BOARD OF DIRECT TAXES

NOTIFICATION

INCOME-TAX

New Delhi, the 27th July 1964

S.O. 2567.—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961, (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. These rules may be called the Income-tax (Third Amendment) Rules, 1964.
2. In rule 5 of the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in sub-rule (1)—

(i) before the existing proviso, the following proviso shall be, and shall be deemed to have been, inserted with effect from the 1st day of April, 1964, namely:—

“Provided that in a case where the assessee has been allowed to vary the meaning of the expression ‘previous year’ in respect of any business or profession under sub-section (4) of section 3 and under the conditions imposed by the Income-tax Officer in this behalf his income from such business or profession for a period of thirteen months or more is included in his total income of any previous year, the aforesaid allowance in respect of buildings, machinery, plant or furniture which have been used by him in such business or profession for such period during that previous year shall be calculated in accordance with the following formula, namely:—

$$X = \frac{D \times N}{12}$$

where—

X Stands for the amount of aforesaid allowance,

D stands for the amount of depreciation that would have been allowed if the buildings, machinery, plant or furniture had been used for a period of 180 days or more, and

N stands for the number of complete months of use by the assessee:”;

- (ii) in the existing proviso, after the word "Provided", the word "further" shall be, and shall be deemed to have been, inserted with effect from the 1st day of April, 1964.

3. In rule 12 of the principal rules, for sub-rule (3), the following sub-rule shall be substituted, namely:—

"(3) Notwithstanding anything contained in sub-rule (2), the return of income required to be furnished under sub-section (1) or sub-section (2) or sub-section (3) of section 139 may be furnished in the case of a person, not being a company, whose income does not include any profits and gains of business or profession (not being a share as a partner in a firm or as a member of an association of persons or a body of individuals) in Form No. 3 and shall in such case be verified in the manner indicated therein."

4. Sub-rule (2) of rule 15 shall be omitted.

5. In rule 18, in clause (a), for the words "fifty per cent.", the words "twenty-five percent." shall, be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1964.

6. In Part XV of the Income-tax Rules, 1962, before rule 112, the following rule shall be inserted, namely:—

"111A. *Application for reduction of the amount of minimum distribution by a company.*—An application under sub-section (1) of section 107A for reduction of the amount of the minimum distribution required of a company under Chapter XI-D shall be made in Form No. 44A."

7. In rule 112—

(1) for the words "Income-tax Officer", wherever they occur, the words "the Inspecting Assistant Commissioner or the Income-tax Officer" shall be substituted;

(2) in sub-rule (1), for the words, brackets and figures "sub-rules (2) to (10)", the words, brackets and figures "sub-rules (2) to (11)" shall be substituted;

(3) for sub-rule (2), the following sub-rule shall be substituted, namely:—

"(2) The Commissioner may, after recording his reasons for doing so, authorise any Inspecting Assistant Commissioner or any Income-tax Officer for the purposes of section 132 of the Act; such authorisation shall—

(i) be in writing under his signature;

(ii) bear his seal, and

(iii) authorise the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be, to enter and search any building place specified therein with such assistance of police officers as may be required."

(4) in sub-rule (7), for the words "the Act", the words, figures and brackets "the Indian Income-tax Act, 1922, (11 of 1922), or the Act" shall be substituted;

(5) sub-rule (10) shall be re-numbered as sub-rule (11) thereof and before that sub-rule as so re-numbered, the following sub-rule shall be inserted, namely:—

"(10) The Inspecting Assistant Commissioner or the Income-tax Officer may convey books of account or other documents seized by him in the course of the search made by him to the office of the Inspecting Assistant Commissioner or any other authority not below the rank of Income-tax Officer employed in the execution of the Act;"

(6) in sub-rule (11) as so re-numbered, for the word "order", the word "authorisation" shall be substituted.

8. For rule 113, the following rule shall be substituted namely:—

"113. *Disclosure of information respecting assessee.*—(1) The application to the Commissioner under sub-section (1) of section 138 for information relating to an assessee in respect of any assessment made either

under the Act or under the Indian Income-tax Act, 1922 (11 of 1922), on or after the 1st day of April, 1960, shall be made in Form No. 46.

- (2) The information under sub-section (1) of section 138 shall be furnished by the Commissioner in Form No. 47.
- (3) Where it is not possible for the Commissioner to furnish the information asked for by the applicant under sub-section (1) of section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No. 48.
- (4) Where the Commissioner is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form No. 49."

9. Rule 114 shall be omitted.

10. In Part I of Appendix I to the principal rules, in the statement of rates at which depreciation is admissible—

- (i) under heading "II. Furniture and Fittings", for the existing item (2), the following item shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1964, namely:—

"(2) Rate for furniture and fittings used in hotels, restaurants, boarding houses and cinema houses.....15";

- (ii) under heading "III. Machinery and Plant", for the remarks in column 3 against sub-heading (i), the following remarks shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1964, namely:—

"An extra allowance up to a maximum of 50 per cent. of the normal allowance shall be allowed by the Income-tax Officer where a concern claims such allowance on account of double shift working and satisfies the Income-tax Officer that the concern has actually worked double shift. An extra allowance up to a maximum of 100 per cent. of the normal allowance, instead of 50 per cent., shall be allowed in computing the total income assessable for any assessment year commencing on or after the 1st day of April, 1964, where a concern proves that it has worked triple shift. The calculations of the extra allowances for double shift working and for triple shift working shall be made separately in the proportion which the number of days for which the concern worked double shift or triple shift, as the case may be, bears to the normal number of working days throughout the previous year. For this purpose, the normal number of working days throughout the previous year shall be taken as 300, and if, for example, a concern has worked only double shift for 100 days and triple shift for another 100 days, the extra allowance for double shift shall be one-third of 50 per cent. of the normal allowance and that for triple shift shall be one-third of 100 per cent. of the normal allowance. This applies to all concerns whether the general rate or any special rate of depreciation applies to them, but does not apply to an item of machinery or plant which has been specifically excepted by the inscription of the letters "N.E.S.A." against it.

Explanation 1.—For this purpose, the normal allowance means the amount of depreciation allowance (other than the extra depreciation allowance for multiple shift working) that would have been allowed under rule 5 if the machinery or plant had been used during the previous year for a period of 180 days or more, or in the case of a seasonal factory, if that factory had been worked by the assessee during all the working seasons of the previous year.

Explanation 2.—For the removal of doubts, it is hereby declared that no extra allowance for double or triple shift working shall be allowed in a case where the machinery or plant has been used for a period of thirty days or less than thirty days during the previous year.

11. In Appendix II to the principal rules—

- (i) Form No. 3 shall be omitted;

*Letters N.E.S.A. are a contraction of the expression "No extra shift allowance".

(ii) Form No. 4 shall be re-numbered as Form No. 3 and in Form No. 3, as so re-numbered,—

(a) for the brackets, words and figures "[See Rule 12(3) (ii)]", the brackets, words and figures "[See Rule 12(3)]" shall be substituted;

(b) in the heading, the words 'and who do not have income chargeable under the head "Salaries" or "Interest on Securities" or "Income from other sources" only' shall be omitted;

(iii) Form No. 8 shall be omitted;

(iv) in Form No. 9, for the existing foot-note, the following foot-notes shall be substituted, namely:—

"NOTES.—(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India.

(2) Delete the inappropriate words.";

(v) in Form No. 28, for the existing foot-notes, the following foot-notes shall be substituted, namely:—

"NOTES.—(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India.

(2) *Delete inappropriate paragraphs or words.

(3) @Applicable in cases covered by the proviso to section 211(1).";

(vi) in Form No. 31,—

(a) after item No. 1, the following items shall be inserted, namely:—

"1A. Present address

1B. Permanent address";

(b) after item No. 13, the following item shall be inserted, namely:—

"14. Passport No./Emergency Certificate No. issued on (date) from (place and country)";

(vii) after Form No. 44, the following form shall be inserted, namely:—

"FORM No. 44-A

(See rule 111 A)

Application to Central Board of Direct Taxes/Commissioner of Income-Tax for the Reduction of the Amount of Minimum Distribution Required of a Company under Chapter XI-D of the Income-tax Act, 1961.

In the Office of the Central Board of Direct Taxes/Commissioner of Income-tax,

In the matter of the application of section 104 to (name of the company) for the assessment year commencing on the 1st day of April, 19

**Application No. of 19*

The applicant states as follows:—

(1) that the principal place of business of the applicant is situate at and that the applicant is assessable within the jurisdiction of the Income-tax Officer, (name of the Circle/Ward);

(2) that the applicant's income of the previous year relevant to the assessment year commencing on the 1st day of April, 19.... (as per details given in the enclosure to the application) amounts to Rs.;

(3) that the applicant's distributable income of that previous year (as per computation given in the enclosure to the application) amounts to Rs.;

(4) that the applicant is not an investment company within the meaning of section 109(ii) of the Income-tax Act, 1961;

before..... (date);

- (5) that under section 104 of the Income-tax Act, 1961, the applicant is required to distribute a minimum of Rs..... (as per computation in the enclosure to the application) as dividends
- (6) that the applicant has already declared or paid/proposes to declare or pay a dividend of Rs.....;
- (7) that the Income-tax Officer has served a notice on the applicant under section 105(1) of his intention to make an order under section 104 and this notice was served upon the applicant on.....;
- (8) that having regard to the current requirements for the development of applicant's business (fully described in the enclosure to the application), it would not be possible or advisable to declare or pay a dividend of more than Rs.....;
- (9) that the applicant, therefore, requests that the Board/Commissioner may be pleased to reduce the amount of minimum distribution required of the applicant under Chapter XI-D of Income-tax Act, 1961 by an amount equal to Rs...../.....per cent. of the statutory percentage of the distributable income;
- (10) that the applicant relies on the following documents or copies thereof in support of his case :—
- (i)
- (ii)
- (iii)
- (iv)

etc.

(One set of the said documents is enclosed for the purpose with translation in English of the documents, where necessary.);

- (11) that the address to which notices or any other communication may be sent to the applicant is.....

Sd./.....

Designation.....

Date.....

(Name of the applicant)

I,..... the (designation) declare that what is stated in the above application is true to the best of my information and belief.

.. Sd./.....

NOTES.—(1) The application must be in triplicate.

(2) The application must be accompanied by a fee of Rs. 100/-. It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India, or a branch of the Reserve Bank of India, after obtaining a chalan from the Income-tax Officer and triplicate chalan sent to the Central Board of Direct Taxes or the Commissioner of Income-tax, as the case may be, with the application. The Central Board of Direct Taxes/Commissioner will not accept cheques, drafts, hundies or other negotiable instruments.

(3) Delete inappropriate words.

(4) *The number and year of application will be filled in the office of the Central Board of Direct Taxes or the Commissioner of Income-tax, as the case may be.”;

(viii) for Form No. 45, the following form shall be substituted, namely :—

“FORM No. 45

(See rule 112)

Warrant of Authorisation under Section 132 of the Income-tax Act, 1961 and Rule 112(11) of the Income-tax Rules, 1962

The Inspecting Assistant Commissioner of Income-tax,

The Income-tax Officer,

.....
Whereas information has been laid before me and on the consideration thereof I have reason to believe that—

a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of the Income-tax Act, 1961, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of the Income-tax Act, 1961 was issued by the Inspecting Assistant Commissioner of Income-tax/the Income-tax Officer,.....
.....to.....(name of the person)
on.....(date) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and he has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice;

a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of the Income-tax Act, 1961 or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of the Income-tax Act, 1961 has been issued by the Inspecting Assistant Commissioner of Income-tax/the Income-tax Officer,.....
to.....(name of the person) on.....
.....,date(to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and he will not produce or cause to be produced, such books of account or other documents as required by such summons or notice;

if a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 131 of the Income-tax Act, 1961 or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922 or under sub-section (1) of section 142 of the Income-tax Act, 1961 is issued to.....
.....(name of the person) to produce, or cause to be produced, books of account or other documents which will be useful for, or relevant to, proceedings under the Indian Income-tax Act, 1922 or under the Income-tax Act, 1961 for the assessment year/years commencing on....., he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice;

Sarvashri/Shri/Shrimati..... are/is in possession of articles or things (including money) wholly disproportionate to their/his/her known sources of income, particulars of which will be useful for, or relevant to, proceedings under the Indian Income-tax Act, 1922 or the Income-tax Act, 1961;

And whereas I have reason to suspect that such books of account, other documents, articles or things (including money) have been kept and are to be found at.....(specify particulars of the building or place). This is to authorise and require you.....
(name of the Inspecting Assistant Commissioner or the Income-tax Officer)—

(a) to enter and search with such assistance of police officers as may be required, the said premises;

(b) to place identification marks on such books and documents as may be found in the course of the search and as you may consider relevant

to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks;

- (c) to examine such books and/or documents and make, or cause to be made, copies or extracts from such books and documents;
- (d) to seize such books and/or documents, and take possession thereof;
- (e) to convey such books or documents to the office of the Inspecting Assistant Commissioner or any other authority not below the rank of the Income-tax Officer employed in the execution of the Income-tax Act, 1961; and
- (f) to exercise all other powers and perform all other duties under section 132 of the Income-tax Act, 1961 and the rules relating thereto.

(Seal)

Commissioner of Income-tax.

NOTE.—Delete inappropriate words.”;

(ix) for Form No. 46, the following form shall be substituted, namely:—

“FORM No. 46

(See rule 113)

Application for Information under sub-section (1) of section 138 of the Income-tax Act, 1961

To

The Commissioner of Income-tax,

.....

Sir,

I request you to furnish information relating to.....

.....

(here give name, status and complete address of the assessee)
in respect of the assessment year commencing on the 1st day of April, 19... ..
on the following points :

1.
2.
3.
4.
5.

etc.

2. The above information is required by me for the following reasons :—

1.
2.

etc.

Signature of the applicant.....

Name of the applicant (in capital letters).....

.....

Father's/Husband's name.....

Full address.....

Dated.....19...

NOTES.—(1) A separate application has to be made in respect of each assessee and in respect of each assessment year.

(2) Regarding status, state whether the person about whom the information is required is an individual, firm, etc.”;

(x) for Form No. 47, the following form shall be substituted, namely :—

“FORM No. 47

(See rule 113)

Form for furnishing information under sub-section (1) of section 138 of the Income-tax Act, 1961

Office of the.....

No.....

Date.....

To

.....
.....
.....

With reference to your application dated..... under sub-section (1) of section 138 of the Income-tax Act, 1961 requesting for information relating to..... in respect of the assessment year commencing on the 1st day of April, 19....., the said information/information respecting items No..... of the said application is given below :—

Name and address of the assessee

Status

Assessment year

1.
2.
3.
4.
5. etc.

2. I/Commissioner of Income-tax,.....am/is satisfied that it is not in the public interest to furnish information respecting items No..... of your application and the information relating thereto is accordingly refused.

Signature of the authority

(Seal)

furnishing the information

NOTE.—Delete in appropriate words.”;

(xi) for Form No. 48, the following form shall be substituted, namely :—

“FORM No. 48

(See rule 113)

Form for intimating non-availability of information under sub-section (1) of section 138 of the Income-tax Act, 1961

Office of the.....

Date.....

No.....

To

.....
.....
.....

With reference to your application dated..... under sub-section (1) of section 138 of the Income-tax Act, 1961 requesting for information relating to.....

.....
 in respect of the assessment year commencing on the 1st day of April, 19.....
 I am to inform you that the said information is not yet available, no assessment
 for the aforesaid assessment year has been made in his/her/their case.

(Seal)

Signature.....

Delete inappropriate words.”;

(xii) for Form No. 49, the following form shall be substituted, namely:—

“FORM No. 49

(See rule 113)

*Refusal to supply information under sub-section (1) of section 138 of the
 Income-tax Act, 1961.*

Office of the.....

Date.....

No.....

To

.....

 With reference to your application dated..... under sub-section (1)
 of section 138 of the Income-tax Act, 1961 requesting for information relating to

 in respect of the assessment year commencing on the 1st day of April, 19.....
 I am to say that I am satisfied that it will not be in the public interest to furnish
 the information asked for and I therefore decline to furnish the same.

(Seal)

Signature.....

[No. 51/F. No. 3(25)-64/TPL.]

HARIHAR LAL, Secy.

